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IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF OREGON

IN RE:

Edgar Valenzuela,  
Priscilla Valenzuela,

Debtors.

Edgar Valenzuela,  
Priscilla Valenzuela,

Plaintiffs,

v.

Capital One Bank (USA), N.A.,

Defendant.

Case No. 19-31642-tmb13

Adv. Proc. No.

COMPLAINT TO AVOID PREFERENCE

Plaintiffs, Edgar and Priscilla Valenzuela, by and through their attorney, Rex K. Daines, allege the following:

**JURISDICTION AND VENUE**

1. This Adversary Proceeding is one arising out of the Plaintiffs' bankruptcy case number 19-31642-tmb13, filed under Chapter 13 of Title 11, now pending in this Court. This Court has jurisdiction over this Adversary Proceeding pursuant to 28 U.S.C. §157, §1334, and 11 U.S.C. §523(b).
2. This suit contains a core proceeding, which this Court has jurisdiction over under 28 U.S.C. §157(b).

- 1       **3.** Venue is correct because the Plaintiffs' chapter 13 is currently pending with this  
2       Court. 28 U.S.C. §1409.

3                               **PARTIES**

- 4       **4.** Plaintiffs are the Debtors in the above lead case filed with this court on May 03,  
5       2019.  
6       **5.** Defendant, Capital One Bank (USA), N.A. (hereinafter "Capital One"), is  
7       authorized to conduct business under the laws of Oregon.

8                               **FACTUAL BACKGROUND**

- 9       **6.** Plaintiffs have an interest in real property located at 2071 NW Bella Vista Dr.  
10       Gresham, OR 97030 ("the property").  
11       **7.** On or about April 5<sup>th</sup>, 2019, Capital One obtained a judgment lien against Plaintiffs  
12       in Multnomah County Circuit Court in case no. 19CV04373 (see Exhibit A).  
13       **8.** By operation of law, the Capital One judgment entered on or about April 5<sup>th</sup>, 2019  
14       created a lien that attached to the property. The creation of the lien is a transfer as  
15       defined by 11 § 101(54).  
16       **9.** The transfer was made on account of an antecedent debt and was made while the  
17       Plaintiffs were insolvent.  
18       **10.** The transfer was made within the ninety (90) day period prior to the filing of  
19       Plaintiffs' chapter 13 petition; and,  
20       **11.** The transfer enabled Capital One to get more than it otherwise would have received  
21       if such transfer had not been made and more than the creditor would have received  
22       on the debt through a Chapter 7 proceeding.  
23       **12.** The transfer was otherwise avoidable by the trustee as the ninety (90) day  
24       preference period commenced on February 2<sup>nd</sup>, 2019 and terminated on the date of  
25       filing, May 3<sup>rd</sup>, 2019. Capital One's judgment was entered and the lien attached on  
26       April 5<sup>th</sup>, 2019.  
27       **13.** Plaintiffs seek to avoid the Capital One judgment lien that attached to the property  
28       during the 90 day preference period.

1  
2 **CAUSE OF ACTION**

3 **(11 U.S.C. § 547)**

4 **14.** Plaintiffs re-allege paragraphs 1-13.

5 **15.** Under 11 U.S.C. § 547(b), Plaintiffs are entitled to avoid the transfer made to  
6 Capital One during the 90 days prior to the commencement of their bankruptcy  
7 case.  
8  
9

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs pray this court enter a Judgment Avoiding the Judgment Lien  
12 of Capital One entered in Multnomah County Circuit Court case no. 19CV04373 in  
13 full.  
14

15 DATED: April 27, 2020

16  
17 By: /s/ Rex K. Daines  
18 Rex K. Daines, OSB # 95244  
19 OlsenDaines, P.C.  
20 Attorney for Plaintiffs  
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Case Information

19CV04373 | Capital One Bank (Usa), N.a. vs Edgar Valenzuela

Case Number	Court	
19CV04373	MUL Civil	
File Date	Case Type	Case Status
01/26/2019	Contract	Closed

Party

Plaintiff	Active Attorneys▼
Capital One Bank (Usa), N.a.	Lead Attorney
	ANDERSON,
	JONATHAN D
	Retained

Defendant  
Valenzuela, Edgar

Disposition Events

04/05/2019 Judgment▼

Judicial Officer  
Bushong, Stephen K.

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Monetary Award

Signed Date: 04/0...

Expiration Date: 0...

Total: \$23906.71

Party

Name: Valenzuela, Edgar

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